

Solid Waste Financial Assurance Instrument Package

Enclosed in this package is the wording for the following financial assurance instruments as required by the Solid Waste Management Regulations for the State of Tennessee:

Performance Bond

Personal Bond Supported by Securities

Financial Test With Letter From Chief Financial Officer

Corporate Guarantee For Closure and/or Post-Closure Care

Municipal and/or County Contracts in Lieu of Performance Bond

City Only Form

County Only Form

Dual County Form

City and County Form

Amendment of Contract in Lieu of Performance Bond

Trust Agreement for Closure/Post-Closure

Irrevocable Standby Letter of Credit

Certificate of Insurance For Closure/Post-Closure

Recommended Wording for the Closure/Post Closure Insurance Policy

Combined Hazardous and Solid Waste Letter from Chief Financial Officer

Combined Hazardous and Solid Waste Financial Test – Letter from Chief Financial Officer

Combined Hazardous and Solid Waste Corporate Guarantee for Closure or Post-Closure Care

PERFORMANCE BOND

Date bond executed: _____

Effective date: _____

Principal: (legal name and business address of owner or operator)

Type of organization: (insert "individual," "joint venture," "partnership," or "corporation")

State of incorporation: _____

Surety(ies): (Name(s) and business address(es)) _____

Permit number, name, address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond (indicate closure and post-closure amounts separately): _____

Total penal sum of bond: \$ _____

Surety's bond number: _____

KNOW ALL PERSONS BY THESE PRESENTS, That we, the Principal and Surety(ies) hereto are firmly bound to the Tennessee Department of Environment and Conservation (hereinafter called Department), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assignees jointly and severally; provided that where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS said Principal is required, under the Tennessee Solid Waste Disposal Act (TSWDA) as amended, to have a permit in order to operate each solid waste disposal facility identified above, and

WHEREAS said Principal is required, to provide financial assurance for proper operation, closure and post-closure care as a condition of the permit,

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall properly operate the solid waste disposal facility and perform closure, whenever required to do so, of each facility for which this bond guarantees proper operation and closure, in accordance with the closure/post-closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

AND, if the Principal shall faithfully operate the solid waste disposal facility and perform post-closure care of each facility for which this bond guarantees proper operation, closure and post-closure, in accordance with the closure/post-closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

OR, if the Principal shall provide alternate financial assurance as specified in Department Rule 1200-1-7-.03(3), and obtain the written approval of such assurance from the Commissioner of the Department (hereinafter called Commissioner), within 90 days after the date notice of cancellation is received by both the Principal and the Commissioner from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Commissioner that the Principal has been found in violation of his permit, the Act, or Rules promulgated pursuant thereto, the Surety(ies) shall, as directed by the Commissioner, operate the facility, perform closure/post-closure in accordance with the closure plan and other permit requirements, or forfeit all or a portion of the penal sum of this bond to the Department.

Upon notification by the Commissioner that the Principal has failed to provide alternate financial assurance as specified in Department Rule 1200-1-7-.03(3), and obtain written approval of such assurance from the Commissioner during the 90 days following receipt by both the Principal and the Commissioner of a notice of cancellation of the bond, the Surety(ies) shall forfeit the penal sum of this bond to the Department as directed by the Commissioner.

The Surety(ies) hereby waive(s) notification of amendments to closure/post-closure plans, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount In the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of the said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Commissioner, provided, however that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Commissioner, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice of the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Commissioner.

IN WITNESS WHEREOF, The Principal and Surety(ies) have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording provided by the Department as required in Rule 1200-1-7-.03(3)(I) as such regulation was constituted on the date this bond was executed.

PRINCIPAL

(Signature(s))

(Name(s))

(Title(s))

(Corporate seal)

CORPORATE SURETY(IES)

(Name and address)

State of incorporation: _____

Liability limit: \$_____

(Signature(s))

(Name(s) and title(s))

(Corporate Seal)

(For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.)

Bond premium: \$_____

PERSONAL BOND SUPPORTED BY SECURITIES

Date bond executed: _____

Effective date: _____

Principal: (legal name and address of operator)

Type of organization: (insert "individual," "joint venture," "partnership" or "corporation")

State of incorporation: _____

Permit number: _____

Name: _____

Address: _____

Closure and post-closure amount(s) for each facility guaranteed by this bond (indicate closure and post-closure amounts separately): _____

Total penal sum of bond: _____

Type(s) of Securities: _____

Serial Number(s) of Security(ies): _____

KNOW ALL PERSONS BY THESE PRESENTS, That we, the Principal, hereto are firmly bound to the Tennessee Department of Environment and Conservation (hereinafter called the Department), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally for the payment of the full amount of the penal sum.

WHEREAS said Principal is required, under the Tennessee Solid Waste Disposal Act as amended (TSWDA), to have a permit in order to operate each solid waste disposal facility identified above, and

WHEREAS said principal is required to provide financial assurance for proper operation, closure and post-closure care as a condition of the permit;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall properly operate the solid waste disposal facility and perform closure, whenever required to do so, of each facility for which this bond guarantees proper operation and closure, in accordance with the closure/post-closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

AND, if the Principal shall faithfully operate the solid waste disposal facility and perform post-closure care of each facility for which this bond guarantees proper operation, closure and post-closure, in accordance with the closure/post-closure care plan and other requirements of the permit, as such plan and permit may be amended, and pursuant to all applicable laws, statutes, rules, and regulation, as such laws, statutes, rules, and regulations may be amended, the liability of the Principal assumed in the provisioning of this bond shall be discharged, the securities supporting the same and any interest from the securities shall be returned to the Principal upon demand.

Upon notification by the Commissioner that the Principal has been found in violation of his permit, the Act, or Rules promulgated pursuant thereto, the Principal shall, as directed by the Commissioner, operate the facility, perform closure/post-closure in accordance with the closure/post-closure care plan and other permit requirements, or forfeit all or a portion of the penal sum of this bond to the Department.

The Principal hereby waive(s) notification of amendments to closure/post-closure care plans, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Principal shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond.

Initial amount of Security(ies) being assigned to the certification of which is being deposited with the Department \$_____.

The Principal has this day assigned in blank, and deposited with the Department, (list the type of security)

The Department is hereby authorized to sell, at public or private sale, said security(ies) if the Principal fails to perform any condition of this bond. The proceeds of any such sale are hereby forfeited to the Department.

The Principal hereto attaches the appropriate demonstration of investment analysis proving that the initial amount of the Security(ies) (as listed in the previous paragraph) \$ _____ will with accrued interest equal or exceed the total penal sum of this bond at the predetermined time of closure of the facility and will provide annual amounts, as accrued, equivalent to the cost of post-closure care annually and summarily for the duration of the post-closure care. The Principal further agrees that at such time as the rate of inflation as published by the United States Department of Commerce exceeds the index on which the investment analysis is herein calculated, that the Principal shall review, along with the Department, whether the amount of the Security(ies) herewith along deposited with the Department along with accrued interest, will at least equal the total amount of the penal sum of the bond, as calculated with the increased rate of inflation. At such time, if it occurs, that the initial amount of the Security(ies) must be increased due to an increased rate of inflation, as published by the U.S. Department of Commerce, the Principal shall so adjust, shall be performed within 60 days of the said publishing of such increase in the national rate of inflation.

IN WITNESS WHEREOF, the Principal has executed this PERFORMANCE BOND and has affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this personal bond on behalf of the Principal and that the wording of this personal bond is identical to the wording provided by the Department as required in Department Rule 1200-1-7-.03.

PRINCIPAL

(Signature(s))

(Name(s))

(Title(s))

(Corporate seal)

Note: All securities submitted in support of this statement of personal bond shall be registered as follows:

“XYZ Corporation and the Tennessee Department of Environment and Conservation or the Tennessee Department of Environment and Conservation.”

**FINANCIAL TEST
WITH LETTER FROM CHIEF FINANCIAL OFFICER**

[Address to Division Director]

I am the Chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance for closure and/or post-closure costs, as specified in Departmental Rule 1200-1-7-.03(3).

[Fill out the following five paragraphs regarding facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its Tennessee Permit Number, name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care].

1. This firm is the owner or operator of the following facilities for which financial assurance for closure and/or post-closure care is demonstrated through the financial test specified in Departmental Rule 1200-1-7-.03(3). The current closure and/or post-closure cost estimates covered by the test are shown for each facility: _____.

2. This firm guarantees, through the guarantee specified in Rule 1200-1-7-.03(3), the closure and/or post-closure care of the following facilities owned or operated by the guaranteed party. The current cost estimates for the closure and/or post-closure care so guaranteed are shown for each facility: _____. The firm identified above is [insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator, (2) owned by the same parent corporation as owner or operator, and receiving the following value in consideration of this guarantee ____; or (3) engaged in the following substantial business relationship with the owner or operator _____, and receiving the following value in consideration of this guarantee ____]. [Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter].

3. In States other than Tennessee, this firm, as owner and/or operator or guarantor, is demonstrating financial assurance for the closure and/or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in Departmental rule 1200-1-7-.03(3). The current closure and/or post-closure cost estimates covered by such a test are shown for each facility: _____

4. This firm is the owner or operator of the following waste management facilities for which financial assurance for closure and/or post-closure care, is not demonstrated either to EPA or a State through the financial test or any other financial assurance mechanism specified in Departmental Rule 1200-1-7-.03(3)(d) or equivalent or substantially equivalent State mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility. _____

5. This firm is the owner or operator of the following UIC facilities for which financial assurance for plugging and abandonment is required under part 144. The current closure and/or post-closure cost estimates are shown for each facility: _____

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

Wording for the Financial Test which accompanies the “Letter from the Chief Financial Officer.”

ALTERNATE I

1. Sum of current closure and post-closure cost estimate [total of all cost estimates shown in the five paragraphs above] \$_____
- *2. Total liabilities [if any portions of the closure or post-closure cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4] \$_____
- *3. Tangible net worth \$_____
- *4. Net Worth \$_____
- *5. Current assets \$_____
- *6. Current liabilities \$_____
7. Net working capital [line 5 minus line 6] \$_____
- *8. The sum of net income plus depreciation, depletion, and amortization \$_____
- *9. Total assests in U.S. (required only if less than 90% of firm’s assets are located in the U.S.) \$_____
10. Is line 3 at least \$10 million? (Yes/No) \$_____
11. Is line 3 at least 6 times line 1? (Yes/No) \$_____
12. Is line 7 at least 6 times line 1? (Yes/No) \$_____
- *13. Are at least 90% of the firm’s assests located in the U.S.? If not, complete Line 14 (Yes/No) \$_____
14. Is line 9 at least 6 times line 1? (Yes/No) \$_____
15. Is line 2 divided by line 4 less than 2.0? (Yes/No) \$_____
16. Is line 8 divided by line 2 greater than 0.1? (Yes/No) \$_____
17. Is line 5 divided by line 6 greater than 1.5? (Yes/No) \$_____

ALTERNATE II

1. Sum of current closure and post- closure cost estimate [total of all cost estimates shown in the five paragraphs above] \$_____
2. Current bond rating of most recent issuance of this firm and name of rating of service \$_____
3. Date of issuance of Bond \$_____
4. Date of maturity of Bond \$_____
- *5. Tangible net worth [if any portion of the closure and post-closure cost estimates is included in “total liabilities” on your firm’s financial statements, you may add the amount of that portion to this line] \$_____
- *6. Total assests in U.S. (required only if less than 90% of firm’s assets are located in the U.S.) \$_____
7. Is line 5 at least \$10 million? (Yes/No) \$_____
8. Is line 5 at least 6 times line 1? (Yes/No) \$_____
- *9. Are at least 90% of firm’s assets located in the U.S.? If not complete line 10 (Yes/No) \$_____
10. Is line 6 at least 6 times line 1? (Yes/No) \$_____

I hereby certify that the wording of this letter is identical to the wording provided by the Department as required in Department Rule 1200-1-7-.03.

[Signature] _____

[Name] _____

[Title] _____

[Date] _____

CORPORATE GUARANTEE FOR CLOSURE AND/OR POST-CLOSURE CARE

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the State of [insert name of State], herein referred to as guarantor. This guarantee is made on behalf of the [owner or operator] of [business address], which is [one of the following: “our subsidiary”; “a subsidiary of [name and address of common parent corporation], of which guarantor is subsidiary”; or “an entity with which guarantor has a substantial business relationship, as defined in Departmental Rule 1200-1-7-.03(3).”

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in Departmental Rule 1200-1-7-.03.
2. [Owner or Operator] owns or operates the following solid waste management facility(ies) covered by this guarantee: [List for each facility: Tennessee Permit Number, name, and address. Indicate for each whether guarantee is for closure, post-closure care, or both.]
3. “Closure plans” and/or “post-closure plans” as used below refer to the plans maintained as required by Departmental Rule 1200-1-7-.03(2) for the closure and/or post-closure care of facilities as identified above.
4. The value received from [owner or operator], guarantor guarantees to the Tennessee Department of Environment and Conservation that in the event that [owner or operator] fails to perform [insert “closure,” “post-closure care” or “closure and/or post-closure care”] of the above facility(ies) in accordance with the closure or post-closure plans and other permit requirements whenever required to do so, the guarantor shall do so or establish a trust fund as specified in Rule 1200-1-7-.03, (I) in the name of [owner or operator] in the amount of the current closure and/or post-closure cost estimates.
5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the Commissioner that he intends to provide alternate financial assurance, as applicable, in the name of [owner or operator]. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [owner or operator] has done so.
6. The guarantor agrees to notify the Commissioner by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.
7. Guarantor agrees that within 30 days after being notified by the Commissioner of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure and/or post-closure care, he shall establish alternate financial assurance as specified in Departmental Rule 1200-1-7-.03 as applicable, in the name of [owner or operator] unless [owner or operator] has done so.
8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure and/or post-closure plan, amendment or modification of the permit, the extension or reduction of the time of performance of closure and/or post-closure, or any other modification or alteration of an obligation of the owner or operator pursuant to Rule 1200-1-7-.03.
9. Guarantor agrees to remain bound under this guarantee for as long as [owner or operator] must comply with the applicable financial assurance requirements of Rule 1200-1-7-.03 for the above-listed facilities, except as provided in paragraph 10 of this agreement.
10. [Insert the following language if the guarantor is (a) a direct or higher-tier corporate parent, or (b) a firm whose parent corporation is also the parent corporation of the owner or operator]:

Guarantor may terminate this guarantee by sending notice by certified mail to the Commissioner and to [owner or operator], provided that this guarantee may not be terminated unless and until [the owner or operator] obtains, and the Commissioner approve(s), alternate closure and/or post-closure care coverage complying with Rule 1200-1-7-.03.

[Insert the following language if the guarantor is a firm qualifying as a guarantor due to its “substantial business relationship” with its owner or operator]

Guarantor may terminate this guarantee 120 days following the receipt of notification, through certified mail, by the Commissioner.

11. Guarantor agrees that if [owner or operator] fails to provide alternate financial assurance as specified in Rule 1200-1-7-.03, as applicable, and obtain written approval of such assurance from the Commissioner within 90 days after a notice of cancellation by the guarantor is received by the Commissioner from guarantor, guarantor shall provide such alternate financial assurance in the name of [owner or operator].
12. Guarantor expressly waives notice of acceptance of this guarantee by the Commissioner or by [owner or operator]. Guarantor also expressly waives notice of amendments or modifications of the closure and/or post-closure plan(s) and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording provided by the Department as required in Department Rule 1200-1-7-.03.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

CONTRACT IN LIEU OF PERFORMANCE BOND

PURSUANT TO T.C.A. 68-211-116 and THE RULES AND REGULATIONS OF THE STATE OF TENNESSEE, the **City** of _____ (hereinafter referred to as "The City"), and the Tennessee Department of Environment and Conservation do hereby contract and agree as follows:

1. This agreement applies to the following solid waste processing and/or disposal facility(s):

2. The City shall properly operate the described solid waste processing and/or disposal facility(s) and perform closure of each facility listed above, in accordance with all requirements of the permit and any applicable closure/post-closure plan, as such plan and permit may be amended, and pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

3. The Total penal sum of this agreement is (per facility):

4. In the event that the City fails to perform as specified in paragraph 2, above, after giving the City notice and opportunity to cure the violation, the Commissioner of the Department of Environment and Conservation may collect any amount up to the total penal sum from any funds that otherwise would be disbursed from the State of Tennessee to the City and this agreement shall act as an assignment of any such forfeited funds from the City to the Tennessee Department of Environment and Conservation.

5. This contract shall be filed with the Commissioner of Finance and Administration who shall distribute any funds forfeited pursuant to this contract upon written notice from the Commissioner of Environment and Conservation.

This _____ day of _____, 20____.

Title: _____
For the City of: _____

Commissioner,
Department of Environment and Conservation

Commissioner,
Department of Finance and Administration

(City Only Form)

Please Submit 4 Signed Originals

CONTRACT IN LIEU OF PERFORMANCE BOND

PURSUANT TO T.C.A. 68-211-116 and THE RULES AND REGULATIONS OF THE STATE OF TENNESSEE, the **County** of _____ (hereinafter referred to as "The County"), and the Tennessee Department of Environment and Conservation do hereby contract and agree as follows:

1. This agreement applies to the following solid waste processing and/or disposal facility(s):

2. The County shall properly operate the described solid waste processing and/or disposal facility(s) and perform closure of each facility listed above, in accordance with all requirements of the permit and any applicable closure/post-closure plan, as such plan and permit may be amended, and pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

3. The Total penal sum of this agreement is (per facility):

4. In the event that the County fails to perform as specified in paragraph 2, above, after giving the County notice and opportunity to cure the violation, the Commissioner of the Department of Environment and Conservation may collect any amount up to the total penal sum from any funds that otherwise would be disbursed from the State of Tennessee to the County and this agreement shall act as an assignment of any such forfeited funds from the County to the Tennessee Department of Environment and Conservation.

5. This contract shall be filed with the Commissioner of Finance and Administration who shall distribute any funds forfeited pursuant to this contract upon written notice from the Commissioner of Environment and Conservation.

This _____ day of _____, 20____.

Title: _____
For the County of: _____

Commissioner,
Department of Environment and Conservation

Commissioner,
Department of Finance and Administration

CONTRACT IN LIEU OF PERFORMANCE BOND

PURSUANT TO T.C.A. 68-211-116 and THE RULES AND REGULATIONS OF THE STATE OF TENNESSEE, the **County** of _____ (hereinafter referred to as "County A"), the **County** of _____ (hereinafter referred to as "County B"), and the Tennessee Department of Environment and Conservation do hereby contract and agree as follows:

1. This agreement applies to the following solid waste processing and/or disposal facility(s):

2. County A and County B shall properly operate the described solid waste processing and/or disposal facility(s) and perform closure of each facility listed above, in accordance with all requirements of the permit and any applicable closure/post-closure plan, as such plan and permit may be amended, and pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

3. The Total penal sum of this agreement is (per facility):

4. In the event that County A and County B fail to perform as specified in paragraph 2, above, after giving County A and County B notice and opportunity to cure the violation, the Commissioner of the Department of Environment and Conservation may collect any amount up to the total penal sum from any funds that otherwise would be disbursed from the State of Tennessee to County A or County B and this agreement shall act as an assignment of any such forfeited funds from County A or County B to the Tennessee Department of Environment and Conservation.

5. This contract shall be filed with the Commissioner of Finance and Administration who shall distribute any funds forfeited pursuant to this contract upon written notice from the Commissioner of Environment and Conservation.

This _____ day of _____, 20____.

Title: _____
For the County of: _____

Title: _____
For the County of: _____

Commissioner,
Department of Environment and Conservation

Commissioner,
Department of Finance and Administration

(Dual County Form)

Please Submit 4 Signed Originals

CONTRACT IN LIEU OF PERFORMANCE BOND

PURSUANT TO T.C.A. 68-211-116 and THE RULES AND REGULATIONS OF THE STATE OF TENNESSEE, the **City** of _____ (hereinafter referred to as "The City"), the **County** of _____ (hereinafter referred to as "The County"), and the Tennessee Department of Environment and Conservation do hereby contract and agree as follows:

1. This agreement applies to the following solid waste processing and/or disposal facility(s):

2. The City and the County shall properly operate the described solid waste processing and/or disposal facility(s) and perform closure of each facility listed above, in accordance with all requirements of the permit and any applicable closure/post-closure plan, as such plan and permit may be amended, and pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

3. The Total penal sum of this agreement is (per facility):

4. In the event that the City and the County fail to perform as specified in paragraph 2, above, after giving the City and the County notice and opportunity to cure the violation, the Commissioner of the Department of Environment and Conservation may collect any amount up to the total penal sum from any funds that otherwise would be disbursed from the State of Tennessee to the City or the County and this agreement shall act as an assignment of any such forfeited funds from the City or the County to the Tennessee Department of Environment and Conservation.

5. This contract shall be filed with the Commissioner of Finance and Administration who shall distribute any funds forfeited pursuant to this contract upon written notice from the Commissioner of Environment and Conservation.

This _____ day of _____, 20____.

Title: _____
For the City of: _____

Title: _____
For the County of: _____

Commissioner,
Department of Environment and Conservation

Commissioner,
Department of Finance and Administration

(City and County Form)

Please Submit 4 Signed Originals

Amendment of Contract in Lieu of Performance Bond

Whereas, _____ and the State of Tennessee Department of Environment and Conservation, entered into a Contract in Lieu of Performance Bond (Copy attached) for proper operation and closure and/or post-closure of the _____, Registration Number _____; and

Whereas, said contract included a provision allowing the Commissioner of Environment and Conservation to collect up to \$_____ from any funds being disbursed or to be disbursed from the State to the _____ as financial assurance for said proper operation, closure and post-closure; and

Whereas, the State and _____ desire to reduce the amount of said financial assurance from \$ _____ to \$ _____
Paragraph 3 of the Agreement in Lieu of Performance Bond is amended as follows:

The figure “\$_____” is deleted and the figure “\$_____” is substituted in lieu thereof.

Date of Amendment to Contract _____, 20__

Commissioner
Department of Environment
and Conservation

Title _____
For the City of _____

Commissioner
Department of Finance
and Administration

Title _____
For the City of _____

Title _____
For _____

(Please Submit 5 Signed Originals of this Document)

TRUST AGREEMENT

Trust Agreement, the “Agreement,” entered into as of [date] by and between _____, a Tennessee corporation, the “Grantor,” and _____, the “Trustee.”

Whereas, the Tennessee Department of Environment and Conservation, “TDEC,” a department of the State Government of Tennessee has established certain regulations applicable to the Grantor, requiring that an owner or operator of a solid waste processing and/or disposal facility shall provide assurance that funds will be available when needed for closure and/or post-closure care of the facility.

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions.

As used in this Agreement:

- (a) The term “Grantor” means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.
- (b) The term “Trustee” means the Trustee who enters into this Agreement and any successor Trustee.
- (c) The term “Beneficiary” means the Department of Environment and Conservation.
- (d) The term “Anniversary Date of Establishment of the Fund” means the date of receipt of payment into the trust by the Trustee.
- (e) The term “Commissioner” means the Commissioner of the Department of Environment and Conservation for the State of Tennessee.

Section 2. Identification of Facilities and Cost Estimates.

This Agreement pertains to the facilities and cost estimates identified on attached Schedule A.

Section 3. Establishment of Fund.

The Grantor and the Trustee hereby establish a trust fund, the “Fund,” for the benefit of TDEC. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. All monies or property to be deposited with the trustee, either initially or hereafter, shall consist of cash, negotiable certificates of deposit, negotiable United States Treasury Securities, negotiable general obligation municipal or corporate bonds which have at least an “A” rating by Moody’s and/or Standard and Poor’s rating services, or any other obligations guaranteed as to principal and interest by the United States or any of its agencies. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by TDEC.

Section 4. Payments for Closure and Post-Closure Care and Release.

The Trustee shall make payments from the Fund as the Commissioner of TDEC (hereinafter “the Commissioner”) shall direct, in writing, to provide for the payment of the costs of closure and/or post-closure care of the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the Commissioner from the Fund for closure and/or post-closure expenditures in such amounts as the Commissioner shall direct in writing. In addition, the Trustee shall release to the Grantor such amounts as the Commissioner specifies in

writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein. During the period of closure and/or post-closure care, the Commissioner may approve a release of funds if the owner or operator demonstrates to the Commissioner that the value of the trust fund exceeds the remaining cost of closure and/or post-closure care. If the Grantor substitutes other financial assurance for all or part of the trust fund, he may submit a written request to the Commissioner for release of an amount from the trust fund that equals the amount of the substituted financial assurance mechanism. After receiving a request from the owner or operator for release of funds as specified above, the Commissioner will instruct the trustee, in writing, to release to the Grantor a specified amount of funds.

Section 5. Payments Comprising the Fund.

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee. The fund created hereby, expressly including the initial and subsequent deposits thereto made by the Grantor, shall consist of cash, negotiable certificates of deposit, negotiable United States Treasury Securities, negotiable general obligation municipal or corporate bonds which have at least an "A" rating by Moody's and/or Standard and Poor's rating services, or any other obligations guaranteed as to principal and interest by the United States or any of its agencies. Upon receipt of initial payment and subsequent payments to the trust fund, the trustee shall send notification to the Commissioner of receipt of such payments.

Section 6. Trustee Management.

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with

respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims, except that:

- (i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;
- (ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and
- (iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment.

The Trustee is expressly authorized in its discretion:

- (a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and
- (b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80-a1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee.

Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

- (a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;
- (b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;
- (d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institutions affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and
- (e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses.

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to

the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation Revision of Cost Estimates and Calculation of Annual Payments Into Trust.

The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Commissioner a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 60 days after the statement has been furnished to the Grantor and the Commissioner shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

The closure and/or post-closure cost estimate must be updated for inflation 30 days prior to the anniversary date of the establishment of the fund. The adjustment may be made by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

- (1) The first adjustment is made by multiplying the closure and/or post-closure cost estimate by the inflation factor. The result is the adjusted closure and/or post-closure cost estimate.
- (2) Subsequent adjustments are made by multiplying the latest adjusted closure and/or post-closure cost estimate by the latest inflation factor.

Payments into the trust fund must be made annually by the owner or operator over the term of the initial permit or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in-period." The payments into the closure and/or post-closure trust fund must be made as follows:

- (1) For a new facility, the first payment must be made before the initial operation is begun. A receipt from the trustee for this payment must be filed by the owner or operator before the operation begins. The first payment must be at least equal to the current closure cost estimate, divided by the number of years in the pay-in-period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next Payment} = \frac{\text{CE}-\text{CV}}{\text{Y}}$$

In this formula, CE is the current closure and/or post-closure cost estimate; CV is the current value of the trust fund; Y is the number of years remaining in the pay-in period.

- (2) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current closure and/or post-closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have if annual payments were made at specified in item (1) of this subpart.
- (3) Any increases or decreases in the amount of the closure and/or post closure cost estimate due to permit modifications shall be factored into the formula for calculating the next annual payment and, therefore, subsequent payments into the trust. Any increases in the amount of the closure and/or post closure cost estimate due to corrective action requirements are excluded from this procedure and may require post a separate financial assurance mechanism.

Section 11. Advice of Counsel.

The Trustee may from time to time consult with counsel to the Grantor and/or the Commissioner, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation.

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee.

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Commissioner, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee and Notices.

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Commissioner to the Trustee shall be in writing, signed by the Commissioner, or his designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor

or TDEC hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or TDEC, except as provided for herein. Any notice required or permitted under the provisions hereof shall be given, in writing, and addressed to the persons designed in Exhibit A at the addresses shown therein.

Section 15. Notice of Payment of Nonpayment.

The Trustee shall notify the Grantor and the Commissioner within 10 days following the last day of each of the 12 consecutive calendar months from the establishment of this Trust, of the receipt of a payment from the Grantor, as specified in Schedule B, during the preceding calendar month or if no payment has been received.

Section 16. Semiannual Accounting

The Trustee shall provide the Grantor and the Commissioner a full accounting of the status of Trust semiannually.

Section 17. Amendment of Agreement.

This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Commissioner, or by the Trustee and the Commissioner if the Grantor ceases to exist.

Section 18. Irrevocability and Termination.

Subject to the right of the parties to amend this Agreement as provided in Section 17, this Trust shall be irrevocable and shall continue until terminated at any time by the written agreement of the Grantor, the Trustee, and the Commissioner, or by the Trustee and the Commissioner, if the Grantor ceases to exist or until 30 days following the end of the period of closure and/or post-closure care for the facility. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 19. Immunity and Indemnification.

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Commissioner issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 20. Choice of Law.

This Agreement shall be administered, construed, and enforced according to the laws of the State of Tennessee.

Section 21. Interpretation.

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and attested as of the date first above written: The parties below certify that the Agreement complies with Rule 1200-1-7-.03 as such rule was constituted on the date this Agreement is executed.

GRANTOR:

By: _____

Title: _____

Attest:

Title: _____

TRUSTEE:

By: _____

Title: _____

Attest:

Title: _____

[Seal]

State of _____)

ss.:

County of _____)

On this _____, before me personally came
_____ to me known, who, being by me duly sworn, did depose
and say that she/he resides at
_____, that she/he is
_____ of _____, the corporation described in and which executed
the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is
such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he
signed her/his name thereto by like order.

Notary Public

My commission expires:

State of _____)

) ss.:

County of _____)

On this _____, before me personally came
_____ to me known, who, being by me duly sworn, did depose
and say that she/he resides at
_____, that she/he is
_____ of ----- described in and which executed the above
instrument; that she/he knows the seal of said national bank; that the seal affixed to such instrument is such
national bank seal; that it was so affixed by order of the Board of Directors of said national bank, and that she/he
signed her/his name thereto by like order.

Notary Public

My commission expires:

Schedule A

Name and Address of Grantor: _____

Tennessee Permit Number of the Facility: _____

Closure Cost Estimate: _____

Post-Closure Care Cost Estimate: _____

Schedule B

The trust fund initially consists of the sum of _____ in cash and the additional sum of _____ in securities described below.

Exhibit A

Name of Chief Executive Officer or Principal of the Grantor facility:

Commissioner's designee:

J. Michael (Mike) Apple, Director

Tennessee Department of Environment and Conservation

Division of Solid Waste Management

401 Church Street, 5th Floor

Nashville, Tennessee 37243-1535

Name of Chief Financial Officer of the Grantor facility:

Name of the Primary Administrator of the Grantor facility:

Exhibit B

Letter from the Trustee to the Grantor acknowledging receipt of the deposit.

IRREVOCABLE STANDBY LETTER OF CREDIT

Director
Division of Solid Waste Management
Tennessee Department of Environment and Conservation

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. ____ in your favor, at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [in words] U.S. dollars \$____, available upon presentation of

- (1) your sight draft, bearing reference to this letter of credit No. _____, and
- (2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Tennessee Solid Waste Disposal Act as amended.

This letter of credit is effective as of [date] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for a period of [at least 1 year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [owner's or operator's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall pay the amount of the draft in accordance with the instructions of the Commissioner of the Tennessee Department of Environment and Conservation or his designee.

We certify that the wording of this letter of credit is identical to the wording provided by the Department as required in Rule 1200-1-7-.03(3).

[Signature(s), and title(s) of official(s) of issuing institution] [Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the international Chamber of Commerce." or "the Uniform Commercial Code"].

CERTIFICATE OF INSURANCE FOR CLOSURE AND POST-CLOSURE

Name and Address of Insurer (herein called the "Insurer"): _____

Name and Address of Insured (herein called the "Insured"): _____

Facilities Covered: [List for each facility: the Tennessee Permit Number, name, address, and the amount of insurance for closure and/or the amount for post-closure care (these amounts for all facilities covered must total the face amount shown below).]

Face Amount: _____

Policy Number: _____

Effective Date: _____

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for [insert "closure care" or "closure and post-closure care" or "post-closure care"] for the facilities identified above. The Insurer further warrants that such policy conforms in all respects with the requirements of Tennessee Department of Environment and Conservation Rule 1200-1-7-.03(3), as applicable and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the Commissioner of the Tennessee Department of Environment and Conservation, the Insurer agrees to furnish to the Commissioner a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the wording of this certificate is identical to the wording provided by the Department as required in Department Rule 1200-1-7-.03.

[Authorized signature for Insurer]

[Name of person signing]

[Title of person signing]

Signature of witness or notary: _____

[Date]

RECOMMENDED WORDING FOR THE CLOSURE / POST CLOSURE INSURANCE POLICY

--

Policy Number:
Renewal of:

1: NAMED
INSURED:
Address:
City/State/Zip:

2: POLICY PERIOD:

From: To:

12:01 A.M. standard time at your mailing address shown above.

3: Limit of **Coverage**, up \$ each **CLAIM**
to
\$ total for all **CLAIMS**

4: Deductible: \$0 each **CLAIM**

5: Covered Location(s): See Endorsements #001 and #003

6: Policy Premium: \$

7: Retroactive Date: N/A

Endorsements Attached to this Policy

		<i>Closure and/or Post-Closure Policy</i>
001	CPCE101 (7/99)	<i>Closure/Post Closure Facility Location Schedule</i>
002	CPCE106 (7/99)	<i>Service of Process</i>
003		<i>Amendatory Endorsement: Tennessee</i>

BROKER

Address:

City/State/Zip:

(Authorized Representative)

INSURANCE COMPANY
(Herein Called the COMPANY)
CLOSURE AND/OR POST-CLOSURE POLICY

Please Read This Policy Carefully

In consideration of the payment of the premium set out in the Declarations and in reliance upon the statements contained in the Applications attached hereto and made a part hereof and any supplemental materials and information submitted herewith, and subject to all the terms and conditions of this Policy, the COMPANY agrees with the NAMED INSURED as follows:

I. INSURING AGREEMENT

The COMPANY agrees to indemnify the INSURED, or to pay such party(ies) as the Tennessee Department of Environment and Conservation, Division of Solid Waste Management (hereinafter "TDEC") designates in writing, subject up to the full Limits of coverage provided under of this Policy, **all** CLOSURE COSTS and/or POST-CLOSURE COSTS that the TDEC instructs the COMPANY to pay in such

amounts as the INSURED or the TDEC specifies in writing. It is a condition under this Policy that coverage is afforded subject to the following:

- The INSURED must be obligated to pay such CLOSURE COSTS and/or POST-CLOSURE COSTS by reason of the determination of the INSURED, upon approval of the TDEC, to implement closure or post closure measures, and/or by reason of the determination of the TDEC to require PARTIAL OR FINAL CLOSURE or post closure of any or all of the WASTE MANAGEMENT FACILITY(IES) or any WASTE MANAGEMENT UNITS located within such Facility(ies) designated in Item 5 of the Declarations or Endorsements #001 and #003; and
- CLAIMS by the INSURED, or such party(ies) as the TDEC designates in writing, for such CLOSURE COSTS and/or POST-CLOSURE COSTS must be first reported in writing to the COMPANY during the POLICY PERIOD including the 120 day period after notice of cancellation or other notice of the termination of the policy; and
- Coverage will apply only for CLOSURE COSTS and/or POST-CLOSURE COSTS which arise from the **determination of the INSURED, upon approval of the TDEC, to implement closure or post closure measures, and/or by reason of the determination of the TDEC to require PARTIAL OR FINAL CLOSURE and/or Post Closure Monitoring** of any or all WASTE MANAGEMENT FACILITY (IES) OR UNIT(S) listed in Endorsements #001 and #003.
- Coverage shall be provided for CLOSURE COSTS and/or POST-CLOSURE COSTS which arise from the determination by the TDEC that such measures are required to be implemented at the WASTE MANAGEMENT FACILITY(ies) or unit(s) consistent with Tennessee's solid and hazardous waste regulations, Chapter 1200 of the Rules and Regulations of the State of Tennessee or otherwise required under the terms of a permit or administrative or judicial order.
- * This Policy shall be construed consistent with the requirements of Tenn. Code Ann. §§68-211-101 *et seq.*, and Tennessee's rule chapter 1200-1-7, including but not limited to, the financial assurance requirements set forth therein.

II. DEFINITIONS

CLAIM means a request by the INSURED upon approval of the TDEC, or a request by the TDEC in writing, for payment under this policy of a statement or bill of expenditures, payable to such parties as the INSURED OR THE TDEC DESIGNATES IN WRITING for **PAYMENT FOR** CLOSURE COSTS and/or POST-CLOSURE COSTS by reason of the instruction of the TDEC to the COMPANY in accordance with Tennessee administrative rule 1200-1-7-.03 (3) (d) 8 to pay such costs arising from PARTIAL OR FINAL CLOSURE of Any WASTE MANAGEMENT FACILITY(ies) listed in Endorsements #001 and #003 or the WASTE MANAGEMENT UNITS located in such Facility(ies) in accordance with its CLOSURE PLAN or POST-CLOSURE PLAN, or in accordance with a permit, or an administrative or judicial order, provided that such request:

1. is first submitted in writing to the TDEC for approval during the POLICY PERIOD; and

CLOSURE POST-CLOSURE COSTS means all expenses for measures specifically identified in the CLOSURE PLAN and approved as justified by the TDEC and all expenses for closure measures otherwise required and approved by the TDEC to achieve compliance with the requirements of Tenn. Code Ann. §§68-211-101 *et seq.*, and Tennessee's rule chapter 1200-1-7.

CLOSURE POST-CLOSURE PLAN means the written CLOSURE PLAN prepared to comply with state administrative rules for Tennessee's authorized program to implement the Resource Conservation and Recovery Act (contained in 40 C.F.R. Part 257, 40 C.F.R. Part 257, Subpart G , or the CLOSURE requirements provided in a permit, consent order, or administrative or judicial order RELATED TO THE closure of THE WASTE MANAGEMENT UNITS OR FACILITIES designated in the Declarations and Endorsements; and provided that such CLOSURE PLAN, including any

revisions or amendments thereto, IS approved by the TDEC and is consistent with the requirements of Chapter 1200 of the Rules and Regulations of the State of Tennessee.

INSURED and NAMED INSURED, **means** _____, **INC., its subsidiaries and affiliates,** and any director, officer, partner or employee thereof. And the entities designated as such in Endorsements #001 and #003.

PARTIAL OR FINAL CLOSURE means the closure of any WASTE MANAGEMENT UNIT(S) at a WASTE MANAGEMENT FACILITY pursuant to the PARTIAL OR FINAL CLOSURE PLAN or closure of the WASTE MANAGEMENT FACILITY OR FACILITIES LISTED IN ENDORSEMENTS #001 and #003.

POLICY PERIOD means the period set forth in Item 2 of the Declarations, or any shorter period arising as a result of:

1. cancellation of this Policy on 120 days notice to the TDEC for non-payment of the premium;
2. with respect to particular location(s) designated in Item 5 of the Declarations:
 - a. the deletion of such location(s) from this Policy by the COMPANY at the written request of the INSURED and upon approval by the TDEC of such deletion in writing to the COMPANY.

REGULATORY BODY means the State of Tennessee Department of Environment and Conservation.

WASTE MANAGEMENT FACILITY or FACILITIES means those entire facilities designated IN ENDORSEMENTS #001 AND #003 THAT engage in the treatment, storage or disposal of SOLID WASTE as defined in Chapter 1200-1-7 of Tennessee administrative rules which includes one or more active or closed WASTE MANAGEMENT UNIT(s) on, within or under such facility(ies), and includes any adjacent or other area impacted by the Facility(ies) or Unit(s).

WASTE MANAGEMENT UNIT means a surface impoundment, waste pile, land treatment area, landfill cell, incinerator, tank and its associated piping and underlying containment system, or a container storage area, or other contiguous area of land on or in which solid waste is placed, or the largest area in which there is significant likelihood of mixing solid waste constituents in the same area. -Such unit must be located on, within or under a WASTE MANAGEMENT FACILITY.

III. TERRITORY

This Policy only applies to CLAIMS arising from CLOSURE COSTS and/or POST-CLOSURE COSTS incurred at WASTE MANAGEMENT FACILITIES located in the United States, its Territories or possessions, or Canada; and made or brought in the United States, its territories or possessions, or in Canada.

IV. EXCLUSIONS

Coverage under this policy does not apply to expenses, costs, charges or losses arising from

1. **Any criminal or civil penalties imposed by reason of the violation of any law or regulation.**
2. **The defense and/or investigation of any obligation for CLOSURE COSTS and/or POST-CLOSURE COSTS hereunder.**

V. LIMIT OF COVERAGE AND RETENTION

This Policy is to pay 100% of any CLAIM.

Subject to the foregoing, and with respect to each WASTE MANAGEMENT FACILITY(ies) and Unit(s) listed in the Declarations, the COMPANY's total coverage for all CLOSURE COSTS and/or POST-CLOSURE COSTS from all CLAIMS reported to the COMPANY during the POLICY PERIOD shall not exceed the Limit of Coverage shown in Item 3 of the Declarations as applicable to the "Total for all CLAIMS."

In the event of Closure of all covered locations, the TDEC can adjust/shift the certificate amounts upward or downward as needed for each location, subject to the Total Limit of Coverage listed on Item 3 of the Policy Declarations Page.

VI. CLAIMS PROVISIONS

With respect to CLAIMS under this Policy, it is a condition precedent to coverage that:

1. In the event that the INSURED is directed by the TDEC to implement closure or post-closure, pursuant to an approved CLOSURE PLAN and/or POST-CLOSURE PLAN, or the INSURED has determined upon approval by the TDEC to implement closure, or post-closure pursuant to such a Plan, the INSURED shall immediately forward to the COMPANY such information, and any demand, notice, or approval of the TDEC regarding the CLOSURE and/or POST-CLOSURE received by the INSURED or his or her representative.

2. Any notices required by these conditions shall be sent to:

Claims Administrator_____
Address_____

Telephone No._____

or other address(es) as substituted by the INSURED and the COMPANY in writing on notice to the TDEC.

A copy of such notice of CLAIM and any substituted address(es) shall be forwarded by the COMPANY to:

**Director, Division of Solid Waste Management
Tennessee Department of Environmental and Conservation
L and C Building, 401 Church Street, 5th Floor
Nashville, Tennessee 37243-1535**

VII. CONDITIONS

1. INSPECTION AND AUDIT -- The COMPANY shall be permitted but not obligated to inspect, sample and monitor on a continuing basis the INSURED's property or operations, at any time. Neither the COMPANY's right to make inspections, sample and monitor nor the actual undertaking thereof nor any report thereon shall constitute an undertaking, on behalf of the INSURED or others, to determine or warrant that property or operations are safe, healthful or conform to acceptable engineering practice or are in compliance with any law, rule or regulation. The COMPANY or its designee may examine and audit the INSURED's books and records at any time during the POLICY PERIOD and extensions thereof, as far as they relate to the subject matter of this insurance, and within any periods of PARTIAL OR FINAL CLOSURE, or post-closure for which coverage is provided.

2. CANCELLATION -- The COMPANY shall not cancel, terminate or fail to renew the coverages provided herein except for failure to pay the full premium shown in Item 6 in the Declarations. If there is a failure to pay the premium, the COMPANY may elect to cancel, terminate or fail to renew the policy by sending, by certified mail, to the INSURED at the address shown in

this Policy and to TDEC, the Tennessee Department of Environment and Conservation, Director of the Division of Solid Waste Management, 401 Church Street, 5th Floor, L & C Tower, Nashville, TN 37243, written notice providing for cancellation no sooner than at least 120 days after the date of receipt of such notice by both the Division Director and the INSURED. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

- (i) The Division Director deems the facility abandoned; or*
- (II) The permit is terminated or revoked or a new permit is denied; or*
- (III) Closure is ordered by the Commissioner, the Board, or a court of competent jurisdiction; or*
- (IV) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or*
- (V) The premium due is paid.*

3. DECLARATIONS AND REPRESENTATIONS -- *By acceptance of this Policy, the INSURED agrees that the statements contained in the Declarations and any other supplemental materials and information submitted herewith are the INSURED's agreements and representations, that they shall be deemed material, that this Policy is issued in reliance upon the truth of such representations and that this Policy embodies all agreements existing between the INSURED and the COMPANY or any of its agents relating to this insurance.*

4. ACTION AGAINST COMPANY- *No action shall lie against the Company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, nor until the amount of the INSURED's obligation to pay shall have been finally determined by the REGULATORY AGENCY.*

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the full limit of coverage afforded by this Policy. Bankruptcy or insolvency of the INSURED or of the INSURED's estate shall not relieve the COMPANY of any of its obligations hereunder.

5. ASSIGNMENT – *This Policy may be assigned to a prospective successor owner or operator of a Tennessee WASTE MANAGEMENT FACILITY(ies) or Unit(s) designated in the Declarations, provided that the COMPANY consents to the assignment, which consent shall not be unreasonably withheld, and shall be on notice to and consent of the TDEC. In no event shall this policy be cancelled or terminated until the successor owner or operator obtains replacement financial assurance approved by the TDEC for the facilities covered herein or until the COMPANY obtains the consent of the TDEC.*

6. SUBROGATION – *In the event of any payment under this Policy, the COMPANY shall be subrogated to all the INSURED's rights of recovery therefor against any person or organization, excluding the TDEC, and the INSURED shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The INSURED shall do nothing after a CLAIM to prejudice such rights.*

7. CHANGES -- *Notice to any agent or knowledge possessed by any agent or by any other person shall not affect a waiver or a change in any part of this Policy or stop the COMPANY from asserting any right under the terms of this Policy; nor shall the terms of this Policy be waived or*

changed, except by endorsement issued to form a part of this Policy upon at least 120 days notice to and approval by the TDEC.

8. *SOLE AGENT -- The NAMED INSURED stated in Item 1 of the Declarations shall act on behalf of all INSUREDS for the payment or return of premium, receipt and acceptance of any endorsement issued to form a part of this Policy, and giving and receiving notice of cancellation or non-renewal.*

9. *CHOICE OF LAW -- It is agreed that this policy shall be construed pursuant to the laws of the State of Tennessee and that in the event of the failure of the COMPANY to pay any amount claimed to be due hereunder, the COMPANY and the INSURED, will submit to the jurisdiction of the State of Tennessee, and will comply with all the requirements necessary to give such court jurisdiction. All matters arising hereunder including questions related to the interpretation, performance and enforcement of this Policy shall be determined in accordance with the law and practice of the State of Tennessee (notwithstanding Tennessee's conflicts of law rules). Nothing in this clause constitutes or should be understood to constitute a waiver of the COMPANY's right to remove an action to a United States District Court in the Districts of Tennessee.*

10. *PREMIUM -- The full Policy premium for coverage hereunder in the amount set forth in Item 6 of the Declarations shall be payable by the NAMED INSURED.*

IN WITNESS WHEREOF the COMPANY has caused this Policy to be signed by its President and Secretary and countersigned on the Declarations by a duly authorized agent of the COMPANY.

SECRETARY

PRESIDENT

ENDORSEMENT #001

This endorsement, effective 12:01 a.m., _____, 2001 forms a part of

Policy No. _____ issued to _____ by _____ Insurance COMPANY.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

CLOSURE AND/OR POST CLOSURE POLICY

The following sublimits of Coverage apply to the Location(s) listed on Endorsement #001 the Closure Post-Closure Location Schedule:

<i>Location</i>	<i>EPA Identification No.</i>	<i>Closure</i>	<i>Post Closure</i>	<i>TSCA Closure</i>
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$

All other terms and conditions remain the same.

(Authorized Representative)

ENDORSEMENT #002

***This endorsement, effective 12:01 a.m., _____, 2001 forms a part of
Policy No. issued to _____ by _____ Insurance COMPANY.***

SERVICE OF PROCESS

Indian Harbor Insurance COMPANY (hereafter referred to as "the COMPANY" by issuance of this policy hereby constitutes and appoints the Commissioner of the Department of Commerce and Insurance as its true and lawful attorney upon whom all lawful process may be served in any action, suit or proceeding instituted in this State by or on behalf of the INSURED or any beneficiary against the COMPANY arising out of this policy of insurance.

***Commissioner of the Department of Commerce and Insurance
State of Tennessee
500 James Robertson Parkway
Nashville, Tennessee 37243***

Attention: Office of General Counsel

All other terms and conditions remain the same.

(Authorized Representative)

ENDORSEMENT #003

This endorsement, effective 12:01 a.m., _____, 2001 forms a part of

Policy No. _____ issued to _____ by _____ Insurance Company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

CLOSURE AND/OR POST CLOSURE POLICY

The Insurer warrants that this policy conforms in all respects with the requirements of State Rules 1200-1-7-.03 (3) (3) (d) 8., as applicable and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Policy Number: _____

Effective Date: _____

All other terms and conditions remain the same.

(Authorized Representative)

ENDORSEMENT #004

***This endorsement, effective _____, 2001 forms a part of
Policy No. _____ issued to _____ by _____ Insurance Company.***

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

CLOSURE AND/OR POST CLOSURE POLICY

All other terms and conditions remain the same.

(Authorized Representative)

A letter from the chief financial officer, as specified in Rules 1200-1-11-.05(8)(n)6, 1200-1-11-.06(8)(n)6, and 1200-1-7-.03(3)(d), must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**COMBINED HAZARDOUS AND SOLID WASTE
LETTER FROM CHIEF FINANCIAL OFFICER
(Liability Coverage and Closure/Post Closure)**

[Address to Division Director]

I am the chief financial officer of [firm's name and address]. This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage [insert "and closure and/or post-closure care" if applicable] as specified in Rules 1200-1-11-.05(8), 1200-1-11-.06(8), and/or 1200-1-7-.03(3).

(Fill out the following paragraphs regarding facilities and liability coverage. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its Installation Identification Number, name, and address.)

The firm identified above is the owner or operator of the following facilities for which liability coverage for [insert "sudden" or "nonsudden" or "both sudden and nonsudden"] accidental occurrences is being demonstrated through the financial test specified in Rules 1200-1-11-.05(8) and 1200-1-11-.06(8).

The firm identified above guarantees, through the guarantee specified in Rules 1200-1-11-.05(8) and 1200-1-11-.06(8), liability coverage for [insert "sudden" or "nonsudden" or "both sudden and nonsudden"] accidental occurrences at the following facilities owned or operated by the following:
The firm identified above is [insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the corporation of the owner or operator, and receiving the following value in consideration of this guarantee ____; or (3) engaged in the following substantial business relationship with the owner or operator, and receiving the following value in consideration of this guarantee ____].
(Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter.)

(If you are using the financial test to demonstrate coverage of both liability and closure and post-closure care, fill in the following five paragraphs regarding facilities and associated closure and post-closure cost estimates. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its Installation Identification Number, name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care.)

Recitals

1. The firm identified above owns or operates the following facilities for which financial assurance for closure and/or post-closure care and/or liability coverage is demonstrated through the financial test specified in Rules 1200-1-11-.05(8), 1200-1-11-.06(8), and 1200-1-7-.03(3). The current closure and/or post-closure cost estimate covered by the test are shown for each facility: _____
2. The firm identified above guarantees, through the guarantee specified in Rules 1200-1-11-.05(8), 1200-1-11-.06(8), and 1200-1-7-.03(3), the closure and post-closure care and liability coverage of the following facilities owned or

operated by the guaranteed party. The current cost estimates for the closure and/or post-closure care so guaranteed are shown for each facility:_____.

3. In States other than Tennessee, this firm is demonstrating financial assurance for the closure and/or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in Rules 1200-1-11-.05(8), 1200-1-11-.06(8), and 1200-1-7-.03(3). The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:_____.
4. The firm identified above owns or operates the following hazardous and/or solid waste management facilities for which financial assurance for closure and/or, if a disposal facility, post-closure care, is not demonstrated either to the Department, another State, or the U.S. Environmental Protection Agency through the financial test or any other financial assurance mechanisms specified in Rules 1200-1-11-.05(8)(I), 1200-1-11-.06(8) and/or 1200-1-7-.03(3), equivalent or substantially equivalent State mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility: _____.
5. This firm is the owner or operator or guarantor of the following UIC facilities for which financial assurance for plugging and abandonment is required under 40 CFR Part 144 and is assured through a financial test. The current closure cost estimates as required by 40 CFR 144.62 are shown for each facility:
.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

(Fill in part A if you are using the financial test to demonstrate coverage only for the liability requirements.)

Part A. Liability Coverage for Accidental Occurrences (Reserved)

(Fill in part B if you are using the financial test to demonstrate assurance of both liability coverage and closure or post-closure care.)

Part B. Closure or Post-Closure Care and Liability Coverage

(Fill in Alternative I if the criteria of Rule 1200-1-11-.06(8)(g)8(i)(I), Rule 1200-1-11-.06(8)(n)6(i)(I), Rule 1200-1-7-.03(3)(d)(i)(I) are used or if the criteria of Rule 1200-1-11-.05(8)(g)7(i)(I) and Rule 1200-1-11-.05(8)(n)6(i)(I) are used. Fill in Alternative II if the criteria of Rule 1200-1-11-.06(8)(g)8(i)(II), Rule 1200-1-11-.06(8)(n)6(i)(II), and Rule 1200-1-7-.03(3)(d)(i)(II) are used or if the criteria of Rule 1200-1-11-.05(8)(g)7(i)(II) and Rule 1200-1-11-.05(8)(n)6(i)(II) are used.)

ALTERNATIVE I

1. Sum of current closure and post-closure cost estimates (total of all cost estimates listed above). \$_____
2. Amount of annual aggregate liability \$_____

- coverage to be demonstrated.
3. Sum of lines 1 and 2 \$ _____
- *4. Total liabilities (if any portion of your closure or post-closure cost estimates is included in your total liabilities, you may deduct that portion from this line and add that amount to lines 5 and 6). \$ _____
- *5. Tangible net worth \$ _____
- *6. Net worth \$ _____
- *7. Current assets \$ _____
- *8. Current liabilities \$ _____
9. Net working capital (line 7 minus line 8). \$ _____
- *10. The sum of net income plus depreciation, depletion, and amortization. \$ _____
- *11. Total assets in U.S. (required only if less than 90% of assets are located in the U.S.). \$ _____
12. Is line 5 at least \$10 million? (Yes/No) _____
13. Is line 5 at least 6 times line 3? (Yes/No) _____
14. Is line 9 at least 6 times line 3? (Yes/No) _____
- *15. Are at least 90% of assets located in the U.S.? If not, complete line 16. (Yes/No) _____
16. Is line 11 at least 6 times line 3? (Yes/No) _____
17. Is line 4 divided by line 6 less than 2.0? (Yes/No) _____
18. Is line 10 divided by line 4 greater than 0.1? (Yes/No) _____
19. Is line 7 divided by line 8 greater than 1.5? (Yes/No) _____

ALTERNATIVE II

1. Sum of current closure and post-closure cost estimates (total of all cost estimates listed above). \$ _____
2. Amount of annual aggregate liability coverage to be demonstrated. \$ _____
3. Sum of lines 1 and 2 \$ _____
4. Current bond rating of most recent issuance and name of rating service. \$ _____
5. Date of issuance of bond. _____
6. Date of maturity of bond. _____
- *7. Tangible net worth (if any portion of the closure or post-closure cost estimates is included in "total liabilities" on your financial statements you may add that portion to this line.) \$ _____
- *8. Total assets in U.S. (required only if less than 90% of assets are located in the U.S.). \$ _____
9. Is line 7 at least \$10 million? (Yes/No) _____
10. Is line 7 at least 6 times line 3? (Yes/No) _____

- *11. Are at least 90% of assets located (Yes/No) _____
in the U.S.? If not, complete
line 12. (Yes/No)
12. Is line 8 at least 6 times line 3? (Yes/No) _____

I hereby certify that the wording of this letter is identical to the wording provided by the Department as required in Rule 1200-1-11-.06(8)(p)7 and Rule 1200-1-7-.03(3)(l)10 as such regulations were constituted on the date shown immediately below.

(Signature) _____
(Name) _____
(Title) _____
(Date)_____

A letter from the chief financial officer, as specified in Rules 1200-1-11-.05(8)(g)7, 1200-1-11-.06(8)(g)8, and 1200-1-11-.03(3)(d)4, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

<p style="text-align: center;">COMBINED HAZARDOUS AND SOLID WASTE FINANCIAL TEST - LETTER FROM CHIEF FINANCIAL OFFICER (Closure and/or Post-closure)</p>

[Address to Division Director]

I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance for closure and/or post-closure costs, as specified in paragraph (8) of Rules 1200-1-11-.05 and 1200-1-11-.06 and in paragraph (3) of Rule 1200-1-7-.03.

(Fill out the following five paragraphs regarding facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its installation Identification Number, name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care.)

Recitals

1. This firm is the owner or operator of the following facilities for which financial assurance for closure and/or post-closure care is demonstrated through the financial test specified in paragraph (8) of Rules 1200-1-11-.05 and .06 and paragraph (3) of Rule 1200-1-7-.03. The current closure and/or post-closure cost estimates covered by the test are shown for each facility: _____.
2. This firm guarantees, through the guarantee specified in paragraph (8) of Rules 1200-1-11-.05 and 1200-1-11-.06 and paragraph (3) of Rule 1200-1-7-.03, the closure and/or post-closure care of the following facilities owned or operated by the guaranteed party. The current cost estimates for the closure and/or post-closure care so guaranteed are shown for each facility: _____. The firm identified above is [insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the corporation of the owner or operator, and receiving the following value in consideration of this guarantee _____; or (3) engaged in the following substantial relationship with the owner or operator _____, and receiving the following value in consideration of this guarantee _____]. (Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter.)
3. In States other than Tennessee, this firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure and/or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in paragraph (8) of Rules 1200-1-11-.05 and 1200-11-.06 and in Paragraph (3) of Rule 1200-1-7-.03. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility: _____.
4. This firm is the owner or operator of the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is not demonstrated either to the Department, another State, or the U.S. Environmental Protection Agency (EPA) through the financial test or

any other financial assurance mechanism specified in paragraph (8) of Rules 1200-1-11-.05 and 1200-1-11-.06 and in paragraph (3) of Rule 1200-1-7-.03 or equivalent or substantially equivalent State mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility: _____.

5. This firm is the owner or operator of the following UIC facilities for which financial assurance for plugging and abandonment is required under 40 CFR part 144. The current closure cost estimates as required by 40 CFR 144.62 are shown for each facility: _____.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

(Fill in Alternative I if the criteria of Rule 1200-1-11-.05(8)(g)7(i)(I), Rule 1200-1-11-.06(8)(g)8(i)(I), or Rule 1200-1-7-.03(3)(d)4 are used. Fill in Alternative II if the criteria of Rule 1200-1-11-.05(8)(g)7(i)(II), Rule 1200-1-11-.06(8)(g)8(i)(II), or Rule 1200-1-7-.03(3)(d)4 are used.)

Alternative I

1. Sum of current closure and post-closure cost estimate
(total of all cost estimates shown in the five paragraphs above)
\$ _____
- *2. Total liabilities (if any portion of your closure or post-closure cost estimates is included in your total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4)
\$ _____
- *3. Tangible net worth
\$ _____
- *4. Net worth
\$ _____
- *5. Current assets
\$ _____
- *6. Current liabilities
\$ _____
7. Net working capital (line 5 minus line 6)
\$ _____
- *8. The sum of net income plus depreciation, depletion, and amortization
\$ _____
- *9. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.)
\$ _____
10. Is line 3 at least \$10 million? (Yes/No)
11. Is line 3 at least 6 times line 1? (Yes/No) _____
12. Is line 7 at least 6 times line 1? (Yes/No) _____

*13. Are at least 90% of firm's assets located in the U.S.?

If not, complete line 14 (Yes/No)

14. Is line 9 at least 6 times line 1? (Yes/No)

15. Is line 2 divided by line 4 less than 2.0? (Yes/No)

16. Is line 8 divided by line 2 greater than 0.1? (Yes/No)

17. Is line 5 divided by line 6 greater than 1.5? (Yes/No)

Alternative II

1. Sum of current closure and post-closure cost estimates
(total of all cost estimates shown in the five paragraphs
above)

\$ _____

2. Current bond rating of most recent issuance of this firm
and name of rating service

\$ _____

3. Date of issuance of bond

4. Date of maturity of bond

*5. Tangible net worth (if any portion of the closure and
post-closure cost estimates is included in "total
liabilities" on your firm's financial
statements, you may add that portion to this line)

\$ _____

*6. Total assets in U.S. (required only if less than 90%
of firm's assets are located in the U.S.)

\$ _____

7. Is line 5 at least \$10 million? (Yes/No)

8. Is line 5 at least 6 times line 1? (Yes/No)

*9. Are at least 90% of firm's assets located in the U.S.?
If not, complete line 10 (Yes/No)

10. Is line 6 at least 6 times line 1? (Yes/No)

I hereby certify that the wording of this letter is identical to the wording provided by the Department as required in Rule 1200-1-11-.06(8)(p)6 and Rule 1200-1-7-.03(3)(l)4 as such regulations were constituted on the date shown immediately below.

[Signature] _____

[Name] _____

[Title] _____

[Date] _____

Corporate Guarantee for Closure and/or Post-Closure Care

A corporate guarantee, as specified in Rule 1200-1-11-.05(8)(g)7, Rule 1200-1-11-.06(8)(g)8, or Rule 1200-1-7-.03(3)(d)4, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

COMBINED HAZARDOUS AND SOLID WASTE CORPORATE GUARANTEE FOR CLOSURE OR POST-CLOSURE CARE

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the State of [insert name of State], herein referred to as guarantor. This guarantee is made to the Tennessee Department of Environment and Conservation on behalf of the [owner or operator] of [business address], which is [one of the following: "our subsidiary", "a subsidiary of [name and address of common parent corporation], of which guarantor is a "subsidiary"; or "an entity with which guarantor has a substantial business relationship, as defined in Rule 1200-1-11-.05(8)(b), Rule 1200-1-11-.06(8)(b) and Rule 1200-1-7-.03(3)(d)4(x)".

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in Rule 1200-1-11-.05(8)(n), Rule 1200-1-11-.06(8)(n)7 and Rule 1200-1-7-.03(3).
2. [Owner or operator] owns or operates the following solid and/or hazardous waste management facility(ies) covered by this guarantee: [List for each facility: Installation Identification Number, name, and address. Indicate for each whether guarantee is for closure, post-closure care, or both].
3. "Closure plans" and "post-closure plans" as used below refer to the plans maintained as required by Tennessee Rules 1200-1-11-.05(7), 1200-1-11-.06(7), and Rule 1200-1-7-.03(2) for the closure and post-closure care.
4. For value received from [owner or operator], guarantor guarantees to the Department that in the event that [owner or operator] fails to perform [insert "closure," "post-closure care" or "closure and post-closure care"] of the above facility(ies) in accordance with the closure or post-closure plans and other permit or interim status requirements whenever required to do so, the guarantor shall do so or forfeit to the State of Tennessee, as specified in Tennessee Rules 1200-1-11-.05(8)(l), 1200-1-11-.06(8)(l) and Rule 1200-1-7-.03(3)(j), as applicable, monies in an amount equal to the current closure or post-closure cost estimates as specified in Tennessee Rules 1200-1-11-.05(8)(c) and (e), 1200-1-11-.06(8)(c) and (e), and 1200-1-7-.03(2)(c)2(iv).
5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the Director of the Department's Division of Solid Waste Management (Division Director) and to [owner or operator] that he intends to provide alternate financial assurance as specified in Tennessee Rules 1200-1-11-.05(8)(g)7(vi), 1200-1-11-.06(8)(g)8(vi) and Rule 1200-1-7-.03(3)(d)4(vi), as applicable, in the name of [owner or operator]. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [owner or operator] has done so.
6. The guarantor agrees to notify the Division Director, by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code,

Corporate Guarantee for Closure and/or Post-Closure Care

naming guarantor as debtor, within 10 days after commencement of this proceeding.

7. Guarantor agrees that within 30 days after being notified by the Division Director of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure, he shall establish alternate financial assurance as specified in Tennessee Rules 1200-1-11-.05(8)(g)7(vii), 1200-1-11-.06(8)(g)8(vii) and Rule 1200-1-7-.03(3)(d)4(vii), as applicable, in the name of [owner or operator] unless [owner or operator] has done so.
8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure or post-closure plan, amendment or modification of the permit, the extension or reduction of the time of performance of closure or post-closure, or any other modification or alteration of an obligation of the owner or operator pursuant to Tennessee Rules 1200-1-11-.05, 1200-1-11-.06 and 1200-1-7.
9. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial assurance requirements of Tennessee Rules 1200-1-11-.05(8), 1200-1-11-.06(8) and 1200-1-7-.03(3), for the above-listed facilities, except that guarantor may cancel this guarantee by sending notice by certified mail to the Division Director and to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by both the Department and [owner or operator], as evidenced by the return receipts.
10. (Insert the following language if the guarantor is (a) a direct or higher-tier corporate parent, or (b) a firm whose parent corporation is also the parent corporation of the owner or operator)

Guarantor may terminate this guarantee by sending notice by certified mail to the Division Director and to [owner or operator], provided that this guarantee may not be terminated unless and until [owner or operator] obtains, and the Commissioner approve(s), alternate closure and/or post-closure care coverage complying with Rules 1200-1-11-.05(8), 1200-1-11-.06(8) and 1200-1-7-.03(3).

(Insert the following language if the guarantor is a firm qualifying as a guarantor due to its "substantial business relationship" with its owner or operator.)

Guarantor may terminate this guarantee 120 days following the receipt of notification, through certified mail, by the Division Director and by [the owner or operator].

11. Guarantor agrees that if [owner or operator] fails to provide alternate financial assurance as specified in Tennessee Rules 1200-1-11-.05(8)(g)7(x)(III), 1200-1-11-.06(8)(g)7(x)(III) and 1200-1-7-.03(d)4(x)(III), as applicable, and obtain written approval of such assurance from the Division Director within 90 days after a notice of cancellation by the guarantor is received by the Division Director from guarantor, guarantor shall provide such alternate financial assurance in the name of [owner or operator].
12. Guarantor expressly waives notice of acceptance of this guarantee by the Department or by [owner or operator]. Guarantor also expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

Corporate Guarantee for
Closure and/or Post-Closure Care

I hereby certify that the wording of this guarantee is identical to the wording provided by the Department as required in Tennessee Rule 1200-1-11-.06(8)(p)8(i) and Rule 1200-1-7-.03(3)(l)II as such regulations were constituted on the date first above written.

Effective Date: _____
(Name of guarantor) _____
(Authorized signature for guarantor) _____
(Name of person signing) _____
(Title of person signing) _____

Subscribed and sworn to before me this the _____ day of _____, 19_____

Notary Public

My commission expires on the _____ day of _____, 19_____.

